

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

JAMES CROMWELL, ET AL.

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:08CV422TSL-JCS

DRIFTWOOD ELECTRICAL CONTRACTORS, INC.

DEFENDANT

ORDER

Plaintiffs James Cromwell, Charles Catlett, Jeff Bankston, Wayne Castleschouldt, Mark Evans and John Reichle brought this action against defendant Driftwood Electrical Contractors, Inc. (Driftwood) alleging that Driftwood failed to pay them overtime in accordance with the requirements of the Fair Labor Standards Act. Driftwood has moved for summary judgment, contending that based on the undisputed facts, as a matter of law, plaintiffs were not "employees" of Driftwood and consequently are not entitled to overtime under the FLSA, and contending further that plaintiffs' claims are time-barred. Plaintiffs have responded in opposition to the motion, and the court, having considered the memoranda of authorities, together with attachments, concludes that the motion is well taken and should be granted.

As regards the issue of the status of plaintiffs as employees or independent contractors, this case is in all relevant respects indistinguishable from the case of Fred Cromwell v. Driftwood Electrical Contractors, Inc., Civil Action No. 1:07CV996HSO-JRM (S.D. Miss. Mar. 4, 2009), in which Judge Ozerden, after

evaluating the undisputed facts in light of the applicable standards for determining employee status, concluded that plaintiffs (one of whom was James Cromwell's brother, Fred Cromwell) did not meet the definition of "employee" under the FLSA so that the FLSA's overtime provisions did not apply to them. Summary judgment was thus granted in favor of Driftwood. This court concurs in Judge Ozerden's analysis and conclusion and likewise concludes that Driftwood is entitled to summary judgment herein as plaintiffs were not "employees" of Driftwood.

Accordingly, it is ordered that Driftwood's motion for summary judgment is granted.

A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 15th day of June, 2009.

/s/ Tom S. Lee
UNITED STATES DISTRICT JUDGE